

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**GEOTAG, INC.**

*Plaintiff,*

**v.**

**AROMATIQUE, INC., et al.**

*Defendants.*

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**C.A. NO. 2:10-cv-00570 (TJW)**

**JURY TRIAL DEMANDED**

**CHRISTIAN DIOR PERFUMES, LLC'S  
ANSWER, DEFENSES AND COUNTERCLAIMS IN RESPONSE TO  
PLAINTIFF GEOTAG, INC.'S AMENDED COMPLAINT**

Defendant Christian Dior Perfumes, LLC ("Christian Dior Perfumes") file this answer to Plaintiff Geotag, Inc.'s ("Geotag" or "Plaintiff") Amended Complaint ("Amended Complaint"), and hereby states as follows:

**PARTIES**

1. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Amended Complaint and therefore denies those allegations.

2. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Amended Complaint and therefore denies those allegations.

3. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Amended Complaint and therefore denies those allegations.

4. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Amended Complaint and therefore denies those allegations.

5. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Amended Complaint and therefore denies those allegations.

6. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Amended Complaint and therefore denies those allegations.

7. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Amended Complaint and therefore denies those allegations.

8. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Amended Complaint and therefore denies those allegations.

9. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Amended Complaint and therefore denies those allegations.

10. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Amended Complaint and therefore denies those allegations.

11. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Amended Complaint and therefore denies those allegations.

12. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Amended Complaint and therefore denies those allegations.

13. Denied. Christian Dior Perfumes, Inc. does not exist and has not existed during the six year period prior to the filing of this Action.

14. Christian Dior Perfumes, LLC admits that it has a place of business in New York, New York. Christian Dior Perfumes, LLC denies the remaining allegations of Paragraph 14.

15. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Amended Complaint and therefore denies those allegations.

16. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Amended Complaint and therefore denies those allegations.

17. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Amended Complaint and therefore denies those allegations.

18. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Amended Complaint and therefore denies those allegations.

19. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 19 of the Amended Complaint and therefore denies those allegations

20. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Amended Complaint and therefore denies those allegations.

21. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 21 of the Amended Complaint and therefore denies those allegations.

22. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Amended Complaint and therefore denies those allegations.

23. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of the Amended Complaint and therefore denies those allegations.

24. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Amended Complaint and therefore denies those allegations.

25. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 25 of the Amended Complaint and therefore denies those allegations.

26. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 26 of the Amended Complaint and therefore denies those allegations.

27. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Amended Complaint and therefore denies those allegations.

28. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 28 of the Amended Complaint and therefore denies those allegations.

29. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 29 of the Amended Complaint and therefore denies those allegations.

30. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of the Amended Complaint and therefore denies those allegations.

31. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 31 of the Amended Complaint and therefore denies those allegations.

32. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 32 of the Amended Complaint and therefore denies those allegations.

33. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 33 of the Amended Complaint and therefore denies those allegations.

34. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 34 of the Amended Complaint and therefore denies those allegations.

35. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Amended Complaint and therefore denies those allegations.

36. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Amended Complaint and therefore denies those allegations.

37. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Amended Complaint and therefore denies those allegations.

38. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Amended Complaint and therefore denies those allegations.

39. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 39 of the Amended Complaint and therefore denies those allegations.

40. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 40 of the Amended Complaint and therefore denies those allegations.

41. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Amended Complaint and therefore denies those allegations.

42. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 42 of the Amended Complaint and therefore denies those allegations.

43. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Amended Complaint and therefore denies those allegations.

44. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the Amended Complaint and therefore denies those allegations.

45. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 45 of the Amended Complaint and therefore denies those allegations.

46. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Amended Complaint and therefore denies those allegations.

47. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 47 of the Amended Complaint and therefore denies those allegations.

### **JURISDICTION AND VENUE**

1. Christian Dior Perfumes admits Paragraph 1 of the Jurisdiction and Venue section of the Amended Complaint alleges that this is an action arising under the patent laws of the United States, Title 35 of the United States Code, but denies the merits of such action. Christian Dior Perfumes also admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). Christian Dior Perfumes admits that it has a website and has solicited business in the district. However, Christian Dior Perfumes denies that its websites comprise infringing methods or systems which are at least used in and/or accessible in this forum. Christian Dior Perfumes denies the remaining allegations contained in Paragraph 1 of the Jurisdiction and Venue section of the Amended Complaint.

2. Christian Dior Perfumes admits that the statutory requirements for venue under 28 U.S.C. §§ 1391(b)-(c) and 1400 are met. However, while venue may be had in the Eastern District



of Texas, this forum is inconvenient and burdensome for Christian Dior Perfumes. Christian Dior Perfumes admits that it has a website and has solicited business in the district. However, Christian Dior Perfumes denies that its websites comprise infringing methods or systems which are at least used in and/or accessible in this forum. Christian Dior Perfumes denies the remaining allegations contained in Paragraph 2 of the Jurisdiction and Venue section of the Amended Complaint.

3. Denied.

**ANSWER TO COUNT 1**

**ALLEGATION OF INFRINGEMENT OF U.S. PATENT NO. 5,930,474**

4. Christian Dior Perfumes admits that United States Patent No. 5,930,474 (the “’474 Patent”) is titled “Internet Organizer for Accessing Geographically and Topically Based Information,” and, that according to the face of the ’474 Patent was apparently issued by the United States Patent and Trademark Office on July 29, 1999. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 4 of Count I to the Amended Complaint, and therefore denies the same.

5. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of Count I to the Amended Complaint and therefore denies those allegations.

6. Paragraph 6 of Count I to the Amended Complaint states legal conclusions to which no response is required. To the extent that an answer is required, Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of Count I to the Amended Complaint and therefore denies those allegations.

7. To the extent directed toward Christian Dior Perfumes, Christian Dior Perfumes denies the allegations of Paragraph 7 of Count I to the Amended Complaint. With respect to the other Defendants, Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of Count I to the Amended Complaint and therefore denies those allegations.

8. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 8 of Count I to the Amended Complaint and therefore denies those allegations.

9. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 9 of Count I to the Amended Complaint and therefore denies those allegations.

10. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 10 of Count I to the Amended Complaint and therefore denies those allegations.

11. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 11 of Count I to the Amended Complaint and therefore denies those allegations.

12. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 12 of Count I to the Amended Complaint and therefore denies those allegations.

13. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 13 of Count I to the Amended Complaint and therefore denies those allegations.

14. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 14 of Count I to the Amended Complaint and therefore denies those allegations.

15. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 15 of Count I to the Amended Complaint and therefore denies those allegations.

16. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 16 of Count I to the Amended Complaint and therefore denies those allegations.

17. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 17 of Count I to the Amended Complaint and therefore denies those allegations.

18. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 18 of Count I to the Amended Complaint and therefore denies those allegations.

19. Denied.

20. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 20 of Count I to the Amended Complaint and therefore denies those allegations.

21. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 21 of Count I to the Amended Complaint and therefore denies those allegations.

22. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 22 of Count I to the Amended Complaint and therefore denies those allegations.

23. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 23 of Count I to the Amended Complaint and therefore denies those allegations.

24. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 24 of Count I to the Amended Complaint and therefore denies those allegations.

25. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 25 of Count I to the Amended Complaint and therefore denies those allegations.

26. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 26 of Count I to the Amended Complaint and therefore denies those allegations.

27. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 27 of Count I to the Amended Complaint and therefore denies those allegations.

28. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 28 of Count I to the Amended Complaint and therefore denies those allegations.

29. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 29 of Count I to the Amended Complaint and therefore denies those allegations.

30. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 30 of Count I to the Amended Complaint and therefore denies those allegations.

31. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 31 of Count I to the Amended Complaint and therefore denies those allegations.

32. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 32 of Count I to the Amended Complaint and therefore denies those allegations.

33. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 33 of Count I to the Amended Complaint and therefore denies those allegations.

34. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 34 of Count I to the Amended Complaint and therefore denies those allegations.

35. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 35 of Count I to the Amended Complaint and therefore denies those allegations.

36. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 36 of Count I to the Amended Complaint and therefore denies those allegations.

37. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 37 of Count I to the Amended Complaint and therefore denies those allegations.

38. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 38 of Count I to the Amended Complaint and therefore denies those allegations.

39. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 39 of Count I to the Amended Complaint and therefore denies those allegations.

40. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 40 of Count I to the Amended Complaint and therefore denies those allegations.

41. Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 41 of Count I to the Amended Complaint and therefore denies those allegations.

42. To the extent directed toward Christian Dior Perfumes, Christian Dior Perfumes denies the allegations of Paragraph 42 of Count I to the Amended Complaint. With respect to the other Defendants, Christian Dior Perfumes lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 42 of Count I to the Amended Complaint and therefore denies those allegations.

43. Paragraph 43 of Count I to the Amended Complaint does not require a response by Christian Dior Perfumes. To the extent any response is necessary, Christian Dior Perfumes denies it has committed any act of infringement, willful or otherwise.

#### **ANSWER TO PRAYER FOR RELIEF**

1. Christian Dior Perfumes denies that Plaintiff is entitled to any of the relief requested in Paragraphs 1 through 6 of its Prayer for Relief.

#### **AFFIRMATIVE DEFENSES**

1. Without conceding that any of the following necessarily must be pled as an affirmative defense, or that any of the following is not already at issue by virtue of the foregoing denials, and without prejudice to Christian Dior Perfumes' right to plead additional defenses as discovery into the facts of the matter warrant, Christian Dior Perfumes hereby asserts the following defenses. Christian Dior Perfumes specifically reserves the right to amend its defenses further as additional information is developed through discovery or otherwise.

**FIRST AFFIRMATIVE DEFENSE**

**Noninfringement**

2. Christian Dior Perfumes has not infringed of any valid claim of the '474 Patent either literally or under the doctrine of equivalents.

**SECOND AFFIRMATIVE DEFENSE**

**Patent Invalidity**

3. Each and every claim of the '474 Patent is invalid for failure to comply with the patent laws, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, 112, and 113.

**THIRD AFFIRMATIVE DEFENSE**

**Prosecution History Estoppel/Prosecution Disclaimer**

4. Prosecution history estoppel and/or prosecution disclaimer preclude any finding of infringement.

**FOURTH AFFIRMATIVE DEFENSE**

**Limitation on Damages**

5. The Plaintiff's claim for relief and damages are limited by 35 U.S.C. §§ 286, 287, and/or 288.

**FIFTH AFFIRMATIVE DEFENSE**

**Laches**

6. Plaintiff's claims against Christian Dior Perfumes are barred in whole or in part by one or more of the equitable doctrines of laches.

**SIXTH AFFIRMATIVE DEFENSE**

**Failure to State a Claim**



7. Plaintiff has failed to state a claim upon which relief can be granted.

8. Christian Dior Perfumes reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses at law or in equity, that may now or in the future be available based on discovery or any other factual investigation concerning this case, including without limitation any applicable defenses asserted by any other defendant in this action.

### **SEVENTH AFFIRMATIVE DEFENSE**

#### **No Injunctive Relief**

9. Plaintiff is not entitled to injunctive relief for any alleged infringement because any alleged injury to Plaintiff is not immediate or irreparable and because Plaintiff has an adequate remedy at law for any alleged injury.

### **COUNTERCLAIMS**

In further response to the Complaint by Geotag, Christian Dior Perfumes asserts the following Counterclaims against Geotag.

#### **PARTIES**

1. Counterclaimant Christian Dior Perfumes, LLC (“Christian Dior Perfumes”) has a place of business in New York, New York.

2. On information and belief, Geotag, Inc. (“Geotag”) is a Delaware corporation with a principal place of business in Plano, Texas.

### **JURISDICTION AND VENUE**

3. These Counterclaims arise under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§2201-02. This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 2201, 2202, 1331 and 1338.

4. By filing the Complaint, Geotag has consented to the personal jurisdiction of this Court.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

6. In view of the filing by Geotag of this suit and Christian Dior Perfumes' defenses, there exists an actual and justiciable controversy between the parties regarding the validity, and alleged infringement by Christian Dior Perfumes of the '474 Patent.

### **COUNT I**

#### **Declaratory Judgment of Invalidity of U.S. Patent No. 5,930,474**

7. Christian Dior Perfumes incorporates by reference the allegations contained in paragraphs 1 to 6 of its Counterclaims.

8. An actual controversy exists between the parties with respect to the invalidity of the '474 Patent.

9. Although Geotag alleges in its Amended Complaint that the '474 patent was duly and legally issued by the United States Patent and Trademark Office after full and fair examination, each and every claim of the '474 Patent is invalid for failure to comply with the patent laws, including but not limited to 35 U.S.C. §§ 101, 102, 103, 112, and 113.

## **COUNT II**

### **Declaratory Judgment of Noninfringement of U.S. Patent No. 5,930,474**

10. Christian Dior Perfumes incorporates by reference the allegations contained in paragraphs 1 to 6 of its Counterclaims.

11. An actual controversy exists between the parties with respect to the alleged infringement of the '474 Patent.

12. Although Geotag alleges in its Complaint that Christian Dior Perfumes has infringed the claims of the '474 Patent, Christian Dior Perfumes has not infringed any claim of the '474 Patent.

### **DEMAND FOR JURY TRIAL**

Christian Dior Perfumes hereby demands a trial by jury of all issues so triable in this action.

### **PRAYER FOR RELIEF**

WHEREFORE, Christian Dior Perfumes prays for the following relief:

- A. That Geotag's claims against Christian Dior Perfumes be dismissed with prejudice and that Geotag take nothing by way of its Complaint;
- B. That judgment be rendered in favor of Christian Dior Perfumes;
- C. For a declaration that Christian Dior Perfumes has not infringed any claim of the '474 Patent;
- D. For a declaration that each and every claim of the '474 Patent is invalid;

E. For an order finding this case exceptional pursuant to 35 U.S.C. § 285 and awarding Christian Dior Perfumes its reasonable attorneys' fees;

F. That Christian Dior Perfumes be awarded its costs of suit incurred in this action; and

G. For such other and further relief as the Court deems just and proper.

Dated: March 21, 2011

Respectfully submitted,

/s/ Avelyn M. Ross

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*Attorneys for Christian Dior Perfumes, LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 21, 2011. Any other counsel of record will be served by first class mail on this same date.

/s/ Avelyn M. Ross